



EMPLOYMENT TRIBUNALS

Claimant

Respondents

A

v

Propeller Pay Limited

RECONSIDERATION JUDGMENT

The Claimant's application for reconsideration of the Judgment of the Tribunal is refused.

REASONS

Introduction

1. The Claimant brought proceedings complaining of race discrimination. The Claim was dismissed by a reserved Judgment which was sent to the parties on 25 March 2026.
2. The relevant history of these proceedings is set out in the written reasons which were provided for the reserved Judgment, which included detailed findings of fact.
3. At 15.45 pm on 5 May 2026, the Claimant e-mailed an application for reconsideration to Manchester Employment Tribunal.
4. The application for reconsideration has been made outside the 14-day time limit for doing so.
5. No application for an extension of time has been made. However, I am not satisfied that the Tribunal should exercise its power to extend the time limit under rule 5(7) of the Employment Tribunal Procedure Rules 2014. As such, the application is dismissed as out of time.
6. Further or alternatively, I am satisfied that there is no reasonable prospect of the Judgment being varied or revoked and, as such, I am satisfied that it is not necessary in the interests of justice to reconsider the Judgment.

Procedure for reconsideration

7. Reconsideration is covered by rules 68 to 71 of the Employment Tribunal Procedure Rules 2024 (the "ET Rules").



8. Rule 68(1) of the ET Rules provides that the "*Tribunal may, either on its own initiative ... or on the application of a party, reconsider any judgment where it is necessary in the interests of justice to do so*".
9. Rule 69 of the ET Rules provides that "*an application for reconsideration must be made in writing setting out why reconsideration is necessary and must be sent to the Tribunal no later than 14 days of the ... date on which the written judgment sought to be reconsidered was sent to the parties*".
10. There is no specific provision for extending this time limit. However, rule 5(7) of the ET Rules states that the "*Tribunal may, on its own initiative or on the application of a party, extend or shorten any time limit specified in these Rules or in any decision, whether or not (in the case of an extension) it has expired*".
11. Similarly, while rule 5(7) of the ET Rules does not make specific provision as to the basis upon which any power to extend time should be exercised, rule 3(3) states that the "*Tribunal must seek to give effect to the overriding objective*" when it "*exercises any power under these Rules*".
12. Under rule 3(1) of the ET Rules, the "*overriding objective of these Rules is to enable the Tribunal to deal with cases fairly and justly*".
13. Rule 3(2) of the ET Rules is in the terms set out below.

"(2) Dealing with a case fairly and justly includes, so far as practicable—

 - (a) ensuring that the parties are on an equal footing,*
 - (b) dealing with cases in ways which are proportionate to the complexity and importance of the issues,*
 - (c) avoiding unnecessary formality and seeking flexibility in the proceedings,*
 - (d) avoiding delay, so far as compatible with proper consideration of the issues, and*
 - (e) saving expense".*
14. Where an application is made within the time limit, or the time limit is extended, the procedure to be followed by the Tribunal is set out in rule 70 of the ET Rules as set out below.

"(2) If the Tribunal considers that there is no reasonable prospect of the judgment being varied or revoked (including, unless there are special reasons, where substantially the same application has already been made and refused), the application must be refused and the Tribunal must inform the parties of the refusal.

(3) If the application has not been refused under paragraph (2), the Tribunal must send a notice to the parties specifying the period by which any written



representations in respect of the application must be received by the Tribunal, and seeking the views of the parties on whether the application can be determined without a hearing. The notice may also set out the Tribunal's provisional views on the application.

(4) If the application has not been refused under paragraph (2), the judgment must be reconsidered at a hearing unless the Tribunal considers, having regard to any written representations provided under paragraph (3), that a hearing is not necessary in the interests of justice.

(5) If the Tribunal determines the application without a hearing the parties must be given a reasonable opportunity to make further written representations in respect of the application”.

15. An application for reconsideration is an exception to the general principle that (subject to appeal on a point of law) a decision of an Employment Tribunal is final. The test is whether it is necessary in the interests of justice to reconsider the Judgment (see rule 68 above).
16. Rule 70(2) of the ET Rules empowers the Tribunal to refuse the application based on preliminary consideration if there is no reasonable prospect of the original decision being varied or revoked.
17. The importance of finality was confirmed by the Court of Appeal in Ministry of Justice v Burton [2016] EWCA Civ 714, in which Elias LJ gave the guidance (at paragraph 21) set out below.

“However, as Underhill J pointed out in Newcastle upon Tyne City Council v Marsden [2010] ICR 743, para 17 the discretion to act in the interests of justice is not open-ended; it should be exercised in a principled way, and the earlier case law cannot be ignored. In particular, the courts have emphasised the importance of finality (Flint v Eastern Electricity Board [1975] ICR 395) which militates against the discretion being exercised too readily; and in Lindsay v Ironsides Ray & Vials [1994] ICR 384 Mummery J held that the failure of a party's representative to draw attention to a particular argument will not generally justify granting a review”.

18. Similarly, in Liddington v 2Gether NHS Foundation Trust [2016] UKEAT/0002/16/DA, Simler P provided further guidance (at paragraph 34) as set out below.

“... a request for reconsideration is not an opportunity for a party to seek to re-litigate matters that have already been litigated, or to reargue matters in a different way or by adopting points previously omitted. There is an underlying public policy principle in all judicial proceedings that there should be finality in litigation, and reconsideration applications are a limited exception to that rule. They are not a means by which to have a second bite at the cherry, nor are they intended to provide parties with the opportunity of a rehearing at which



the same evidence and the same arguments can be rehearsed but with different emphasis or additional evidence that was previously available being tendered”.

19. In Ebury Partners UK v Davis [2023] EAT 40, HHJ Shanks gave further guidance (at paragraph 24) as set out below.

“The Employment Tribunal can therefore only reconsider a decision if it is necessary to do so ‘in the interests of justice.’ A central aspect of the interests of justice is that there should be finality in litigation. It is therefore unusual for a litigant to be allowed a ‘second bite of the cherry’ and the jurisdiction to reconsider should be exercised with caution. In general, while it may be appropriate to reconsider a decision where there has been some procedural mishap such that a party had been denied a fair and proper opportunity to present his case, the jurisdiction should not be invoked to correct a supposed error made by the ET after the parties have had a fair opportunity to present their cases on the relevant issue. This is particularly the case where the error alleged is one of law which is more appropriately corrected by the EAT”.

20. In common with all powers under the ET Rules, preliminary consideration of an application for under rule 70(2) must be conducted in accordance with the overriding objective to deal with cases fairly and justly. This includes dealing with cases in ways which are proportionate to the complexity and importance of the issues. Achieving finality in litigation is part of a fair and just adjudication.

The Claimant’s application

21. The Judgment in this case was e-mailed by the Employment Tribunal to the Claimant on 25 March 2026. The covering e-mail attached both the Judgment (which included full written reasons) and a covering letter which set out the time limits which apply in respect of (a) applying to the Employment Tribunal for a reconsideration of the decision and (b) appealing the decision to the Employment Appeal Tribunal.
22. The covering letter contained links to the online guidance as to both applying for a reconsideration and appealing. It makes it clear that these processes *“are quite different, and you will need to decide whether to follow either or both”*. The letter further makes it clear that there are *“strict time limits”* both for applying for reconsideration and appealing and the *“time limits are different”*. The applicable time limits are then set out in a table within the body of the letter although it is made clear that the potential appellant or applicant *“must read the guidance”*. The table makes it clear that the time limit for applying for a reconsideration is 14 days from the date that the Judgment is sent to the parties whereas the time limit for appealing is 42 days from the date that the Judgment is sent to the parties with the appeal needing to be received *“by 4.00pm on the last day”*



23. The letter then provides a link to online guidance as to how to appeal to the Employment Appeal Tribunal. The online guidance makes it clear that any appeal needs to be provided to the Employment Appeal Tribunal and not the Employment Tribunal within the 42-day time limit (as well as setting out the documents which need to be provided with the appeal which include the Judgment itself).
24. It is self-evident that, regardless of the content of the covering letter, information as to both applying for a reconsideration and appealing to the Employment Appeal Tribunal is easily accessible online.
25. At 15.45 pm on 5 May 2025, the Claimant sent an e-mail to the Employment Tribunal, copied to the Respondent's Solicitors with the subject line reading "*reconsideration of the judgment issued on the 25th March 2026*". This was a covering e-mail, the body of which consisted of a single sentence which read "*I would like to request reconsideration and rehearing of the case with the following submissions*".
26. There were four attachments to the e-mail. One of the attachments was a completed Notice of Appeal (on the requisite form) for appealing to the Employment Appeal Tribunal. This brief pro forma document contains guidance as to the need to attach to the Notice of Appeal a copy of the Judgment of the Employment Tribunal, and the need to read and comply with the Practice Direction of the Employment Appeal Tribunal with regard to each step taken in the appeal.
27. Paragraph 7 of the Notice of Appeal form requires the Appellant to set out the grounds upon which it is being contended that the Employment Tribunal erred in law with the grounds set out by the Claimant simply stating "*misapplication of the law, procedural irregularity and impropriety not taken account, hypothetical comparator not applied fairly*".
28. The second attachment to the Claimant's email was a 12-page document headed "Application for Reconsideration/Appeal Against Employment Tribunal Decision". The relief being sought by the Claimant was stated to be that of a "*rehearing of the claim*", with reference also being made to "*reconsideration with a different judge*". Clearly, these are outcomes which are beyond the scope of the procedure for applying to the Employment Tribunal for a reconsideration of the Tribunal's own decision where the application is considered by the Judge who made the decision. Even if it was decided that there should be a hearing of the application for reconsideration, the hearing would be limited to the grounds of the application rather than proceeding as a rehearing.
29. The document essentially sets out submissions in support of the contention that the decision of the Employment Tribunal was wrong. In doing so, the document is essentially setting out submissions in support of the Claim



30. The other two attachments to the e-mail were the ET1 Form of Claim and ET3 Form of Response (but not the Judgment / Reasons for the decision). These were not documents which the Claimant was under a requirement to send to the Employment Tribunal in order to pursue any application for a reconsideration (but were documents which needed to be provided in appealing to the Employment Appeal Tribunal).
31. In the circumstances outlined above, the Claimant appears to be conflating any grounds for a reconsideration with any grounds of appeal. Given that the Notice of Appeal does not set out any grounds of appeal beyond identifying the labels or headings which might be applied to any such grounds, it appears that any appeal and any application for a reconsideration involve reliance being placed upon the submissions set out in the 12-page document provided with the Notice of Appeal. The points being made by the Claimant are essentially ones he had already made, or could have made, in the course of the hearing of his Claim. As such, I do not consider it to be in the interests of justice to reconsider the decision based on these points. The Claimant is seeking to relitigate his case in a way which is contrary to the principle as to the finality of litigation.
32. Further or alternatively, the Claimant is effectively seeking to re-open issues of fact on which the Tribunal heard evidence from both sides and made a determination. In that sense this amounts to seeking a "*second bite at the cherry*" which also undermines the principle of finality.
33. Such attempts do not have a reasonable prospect of resulting in the decision being varied or revoked unless the Tribunal has missed something important, or if there is new evidence available which could not reasonably have been put forward at the hearing. A Tribunal will not reconsider a finding of fact just because the Claimant wishes it had gone in his favour.
34. That broad principle would essentially dispose of the various points which the Claimant seeks to make in support of any application for a reconsideration. On this basis, the decision of the Tribunal would be to dismiss the application for a reconsideration. It would not be in the interests of justice and would be inconsistent with the principle as to the finality of litigation, to allow the Claimant to use the procedure in respect of applying for a reconsideration to challenge a decision which was arrived at following a hearing at which the Claimant either made or could have made the points which are now being relied upon as grounds for a reconsideration. Moreover, in the light of the consideration given, in the Judgment of the Tribunal, to the points raised by the Claimant, I have concluded that there is no reasonable prospect of the Judgment being varied or revoked.
35. However, on the face of it, insofar as the Claimant is seeking to pursue a separate application to the Employment Tribunal, inviting the Employment



Tribunal to reconsider its decision, he appears to have done so through providing documentation in relation to an appeal, within the significantly longer time limit which applies to an appeal, although it is unclear whether this documentation has separately been provided to the Employment Appeal Tribunal. The applicable guidance makes it clear that a separate, much shorter, time limit applies to making applications to the Employment Tribunal for the Employment Tribunal to reconsider its own decision.

36. Applying the overriding objective, namely that of enabling the Tribunal to deal with cases fairly and justly, I am not satisfied that the Tribunal should extend the 14-day time limit for making any application for reconsideration. In this regard, the Claimant had every opportunity during the hearing before the Employment Tribunal to make the submissions which he wished to make in support of his case. As described in the written reasons for the Judgment, it can be seen that the Claimant's closing submissions occupied most of the final afternoon of the case in a case where the issue to be determined by the Tribunal was essentially that of whether the termination of the Claimant's employment with the Respondent was on the grounds of his race. Insofar as the Claimant is making an application for a reconsideration of that decision, significantly outside the time limit for doing so, the Employment Tribunal is not satisfied, having regard to the overriding objective, that there is any reason for extending the time limit for doing so. In any event, I am satisfied that there is no reasonable prospect of the original decision being varied or revoked

Conclusion

37. Consequently, his application for reconsideration is refused.

Approved by
Employment Judge Kenward

Dated 4 August 2026

Sent to the parties on

Dated: 6 August 2026

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For the Tribunal office